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3 UNITED STATES DISTRICT COURT  
4 WESTERN DISTRICT OF WASHINGTON  
5 AT TACOMA

6 HAIKEL GSOURI,

7 Plaintiff,

8 v.

9 FARWEST STEEL CORPORATION, an  
10 Oregon corporation,

11 Defendant.

CASE NO. C10-5769BHS

ORDER GRANTING IN PART  
AND DENYING IN PART  
PLAINTIFF'S MOTIONS TO  
COMPEL

12 This matter comes before the Court on Plaintiff Haikel Gsouri's ("Gsouri") motions  
13 to compel (Dkts. 20 & 22). The Court has reviewed the briefs filed in support of and in  
14 opposition to the motions and the remainder of the file and hereby grants in part and denies  
15 in part the motions for the reasons stated herein.

16 **I. PROCEDURAL AND FACTUAL HISTORY**

17 On September 15, 2010, Gsouri filed a complaint in state court against Defendant  
18 Farwest Steel Corporation ("Farwest") alleging violations of the Washington Law Against  
19 Discrimination, RCW 49.60, *et seq.*, and 42 U.S.C. § 1981. Dkt. 1, Exh. A. On October  
20 20, 2010, Farwest removed the action to this Court. Dkt. 1.

21 During discovery, Gsouri propounded certain interrogatories and requests for  
22 production to Farwest. Gsouri sought information regarding manager and employee  
23 training, employee complaints, other similarly situated employees ("comparators"), and  
24 other acts of discrimination. Dkt. 20 at 5-6. The discovery requests at issue are requests  
25 for production 6, 7, 12, 13, and 19 and interrogatories 4, 5, and 8. *Id.* Farwest initially  
26 responded to these discovery requests and, on June 11, 2011, provided supplemental  
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1 responses and objections. Dkt. 21, Declaration of Mark A. Crabtree, Exh. A (“Farwest’s  
2 Supp. Resp.”).

3 On June 30, 2011, Gsouri filed a motion to compel. Dkt. 20. On July 5, 2011,  
4 Gsouri filed a second motion to compel. Dkt. 22. On July 15, 2011, Farwest responded to  
5 the first motion to compel. Dkt. 26. On July 15, 2011, Gsouri replied. Dkt. 29.

## 6 **II. DISCUSSION**

### 7 **A. Motion to Compel**

8 Federal Rule of Civil Procedure 26 governs discovery and provides, in part, as  
9 follows:

10 Parties may obtain discovery regarding any nonprivileged matter that  
11 is relevant to any party’s claim or defense—including the existence,  
12 description, nature, custody, condition, and location of any documents or  
13 other tangible things and the identity and location of persons who know of  
14 any discoverable matter. For good cause, the court may order discovery of  
15 any matter relevant to the subject matter involved in the action. Relevant  
information need not be admissible at the trial if the discovery appears  
reasonably calculated to lead to the discovery of admissible evidence. All  
discovery is subject to the limitations imposed by Rule 26(b)(2)(C).

16 Fed. R. Civ. P. 26(b)(1).

17 If a party fails to answer an interrogatory or a request for production or objects, the  
18 requesting party may move to compel disclosure. Fed. R. Civ. P. 37(a)(3)(B). The party  
19 who resists discovery has the burden to show discovery should not be allowed, and has the  
20 burden of clarifying, explaining, and supporting its objections. *Blankenship v. Hearst*  
21 *Corp.*, 519 F.2d 418, 429 (9th Cir. 1975).

### 22 **1. First Motion**

23 In Gsouri’s first motion to compel, Gsouri claims that Farwest has failed to respond  
24 to Gsouri’s requests for production 6, 7, 12, 13, and 19 and interrogatories 4, 5, and 8.  
25 Dkt. 20 at 5-6. The Court will address each discovery request.

26 With regard to Gsouri’s request for production 6, Farwest responded that it “will  
27 produce any responsive documents in its possession, custody or control.” Farwest’s Supp.  
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1 Resp. at 15. It is unclear from Gsouri's briefs that Farwest has failed to answer or objected  
2 to the production of any document responsive to this request. Therefore, the Court denies  
3 Gsouri's motion on this issue because Gsouri has failed to show that his motion to compel  
4 on this discovery request was necessary.

5 With regard to Gsouri's request for production 19 and interrogatory 8, Farwest  
6 provided an answer to the interrogatory and asserted that it does not possess any document  
7 that is responsive to the request for production. Farwest's Supp. Resp. at 27-28.  
8 Therefore, the Court denies Gsouri's motion on these issues because Gsouri has failed to  
9 show that his motion to compel on these discovery requests was necessary.

10 With regard to Gsouri's request for production 7, Gsouri requested that Farwest  
11 "[p]roduce all documents recording or memorializing any Defendant employee complaints,  
12 formal or informal, of harassment, discrimination or retaliation from January 1, 2005 to  
13 the present." See Dkt. 20 at 6. Farwest responded that it would "produce responsive  
14 documents limited to Defendant's Vancouver, Washington facility." Farwest's Supp.  
15 Resp. at 17. Farwest argues that "it is inherently appropriate to limit this request to the  
16 Vancouver facility" and cites cases for the proposition that discovery should be limited to  
17 the discrete unit of the company where Gsouri worked. Dkt. 26 at 4. Farwest, however, has  
18 failed to meet its burden to show that Gsouri's discovery should be limited to the  
19 Vancouver facility. The decision to fire Gsouri was made by Farwest's director of human  
20 resources, Kevin Peterson. Dkt. 14, Declaration of Kevin Peterson ("Peterson Decl."), ¶ 2.  
21 Mr. Peterson also declared that he was aware of Gsouri's discrimination complaints,  
22 retaliation complaints, and Gsouri's safety violations when he opted to terminate Gsouri's  
23 employment. *Id.*, ¶¶ 14-15. Farwest has failed to show that company wide complaints of  
24 harassment, discrimination or retaliation would not lead to admissible evidence when the  
25 head of its human resource department was involved in the investigation of Gsouri's  
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1 complaint and ultimately made the decision to terminate Gsouri's employment. Therefore,  
2 the Court grants Gsouri's motion to compel as to request for production 7.

3 With regard to request for production 12 and interrogatory 4, Gsouri requests  
4 information regarding work place injuries or any "near miss" and Farwest's response to the  
5 incidents. *See* Dkt. 20 at 6. Farwest responded that it would produce relevant information  
6 subject to the time period restriction of March 1, 2009 to present and the location  
7 restriction of the Vancouver facility. Farwest's Supp. Resp. at 20-21. As stated above,  
8 Farwest has failed to show that the location restriction is appropriate in this case.  
9 Moreover, Farwest has provided no argument for its proposed time period restriction.  
10 Therefore, the Court grants Gsouri's motion to compel as to request for production 12 and  
11 interrogatory 4.

12 With regard to request for production 13 and interrogatory 5, Gsouri requests  
13 information regarding Farwest employees that were counseled or disciplined because of  
14 drug or alcohol use. *See* Dkt. 20 at 6. As stated above, Farwest placed time and location  
15 restrictions on the production of this information. Farwest's Supp. Resp. at 21-22.  
16 Farwest has failed to meet its burden to show that these restrictions are appropriate.  
17 Therefore, the Court grants Gsouri's motion to compel as to request for production 13 and  
18 interrogatory 5.

## 20 **2. Second Motion**

21 In Gsouri's second motion, he moves the Court for an order requiring Farwest to  
22 produce information regarding its financial condition and net worth. Dkt. 22. Farwest  
23 failed to respond and has failed to meet its burden on showing why Gsouri's request is  
24 inappropriate. Therefore, the Court grants Gsouri's second motion to compel.

## 25 **B. Attorney's Fees**


26 If the Court grants a motion to compel, it "must require the party or deponent whose  
27 conduct necessitated the motion . . . to pay the movant's reasonable expenses incurred in  
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1 making the motion, including attorney's fees." Fed. R. Civ. P. 37(a)(5)(A). Gsouri may  
2 submit a brief regarding its reasonable expenses no longer than 5 pages, no later than  
3 August 17, 2011. Farwest may respond no later than August 26, 2011.

4 **III. ORDER**

5 Therefore, it is hereby **ORDERED** that Gsouri's motions to compel (Dkts. 20 &  
6 22) are **GRANTED in part** and **DENIED in part** as stated herein. The parties may file  
7 briefs regarding reasonable expenses as set forth above.

8 DATED this 8<sup>th</sup> day of August, 2011.

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11 BENJAMIN H. SETTLE  
12 United States District Judge  
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